

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 33752	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/JP2004/006342	International filing date (day/month/year) 30.04.2004	Priority date (day/month/year) 29.08.2003
International Patent Classification (IPC) or national classification and IPC A23L1/00, A23D7/00, A23L1/01		
Applicant NICHIREI FOODS, INC.		

1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.	
2.	This REPORT consists of a total of <u>4</u> sheets, including this cover sheet.	
3.	This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).	
4.	This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/JP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2004/006342

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
 - ☒ the international application as originally filed/furnished
 - ☐ the description:
 - pages _____ as originally filed/furnished
 - pages* _____ received by this Authority on _____
 - pages* _____ received by this Authority on _____
 - ☐ the claims:
 - nos. _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* _____ received by this Authority on _____
 - nos.* _____ received by this Authority on _____
 - ☐ the drawings:
 - sheets _____ as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2004/006342

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1. Statement			
Novelty (N)	Claims	1-10	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-10	NO
Industrial applicability (IA)	Claims	1-10	YES
	Claims		NO
2. Citations and explanations (Rule 70.7)			
Document 1: JP 61-132170 A (Takeo MIYAMOTO), 19 June 1986 (Family: none)			
<p>Document 1 discloses frozen food products that are packaged within a baking container, wherein said invention is prepared by storing and freezing a fresh food product or a partially cooked food product along with an oil or a fat within an aluminum baking container. Therein, document 1 specifically indicates that a molten hydrogenated coconut oil that has a melting point of 30°C is filled into the bottom part of an aluminum baking container that has the shape of a frying pan and is cooled until the surface of the oil or fat has solidified, whereafter shrimp or the like are disposed upon the solidified oil or fat and then the filled container is sealed and frozen.</p> <p>The oil that is coated upon the base part is brought into contact with a flame in the invention that is set forth in claim 1, whereas the oil is melted in advance and then filled into the bottom part of the aluminum baking container that has the shape of a frying pan in the invention that is disclosed in document 1; therefore, the inventions in question are different.</p>			

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2004/006342

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However, it would have been easy for a person skilled in the art to conceive of configuring so that the fat or oil in the invention that is disclosed in document 1 is added to the bottom part of the container without being melted in advance, and is then heated so that it melts. In addition, document 1 does not indicate that the solidified fat or oil forms a film, or that said film can be peeled away. However, it would have been easy for a person skilled in the art to understand that a molten fat or oil that has solidified in the bottom part of a container will take the form of a film. Furthermore, both the film that is obtained in the manner indicated above and the film in the invention that is set forth in claim 1 are formed by means of similar methods, and thus it is thought that the film in question can also be peeled away.

Such being the case, the invention that is set forth in claim 1 does not involve an inventive step in the light of document 1.

In addition, it would have been easy for a person skilled in the art to conceive of simplifying the film formation process by selecting a fat or oil with a relatively high melting point, which includes an unsaturated fatty acid such as a linolic acid or a linoleic acid. As a result, the inventions that are set forth in claims 2 to 10 do not involve an inventive step in the light of document 1.